

WRIT PETITION NO. 266 OF 2003.

Master Akash Ramesh Verenkar,
through his father and
natural guardian Shri Ramesh
Verenkar, Engineer, r/o
Durganagar, Borim, Ponda.

... Petitioner.

Versus

1. Union of India through
Secretary, Ministry of
Human Resources Development,
New Delhi.
2. State of Goa through Chief
Secretary, Secretariat,
Panaji.
3. The Director of Technical
Education, Directorate of
Technical Education, Alto-
Porvorim.
4. Central Board of Secondary
Education through its
Chairman, 17-B, Indraprastra
Estate, New Delhi.
5. The Director, National
Institute of Technology Karnataka,
Srinivasnagar, Surathkal,
Karnataka.
6. The Director of Education,
Government of Goa, Directorate
of Education, 18th June Road,
Panaji.
7. The Goa Board of Secondary
and Higher Secondary Education
through its Chairman, Alto-
Porvorim.

... Respondents.

Mr. M.S. Usgaonkar, Senior Advocate with Mr. S.V. Kamat,
Advocate for the Petitioner.

Mr. V.P. Thali, Senior Central Government Standing
Counsel for Respondents 1 and 4.

Mr. A.N.S. Nadkarni, Advocate General with Mr. H.D.
Naik, Additional Government Advocate for the
Respondents 2, 3 and 6.

Coram : F.I. REBELLO AND
P.V. HARDAS, JJ.

Date : 2nd July 2003.

ORAL ORDER (PER REBELLO, J.)

The petitioner is an aspirant for admission to undergraduate course in Engineering for seats in National Institute of Technology (NIT) and Regional Engineering Colleges (RECs). Previous to the academic year, admissions to these institutions was based on what is known as Home Study Quota and All India Quota. Under the Home Study Quota admission used to be based on either the common entrance examination conducted by the State Government or an equivalent examination conducted in the State. In the State of Goa there is no NIT or RE Colleges. However the Government of India has reserved 20 seats for students passing out from institutions in Goa for admission. Admission for these seats until the last academic year was based on results of the XIIth standard examination conducted by the Goa Board of Higher Secondary Education.

The respondent no. 1 decided to change the pattern of admission to these institutions by conducting an All India Engineering Entrance Examination (AIEEE) both for Home Study Quota and All India Quota. Before this change over the first respondent intimated the same to various institutions and Governmental Departments about this change of policy. On 20th December 2002, the respondent no. 4 had released paper advertisements in

leading national daily newspapers including the "Hindu" giving a wide publicity of the decision of the respondent no. 1 that all the admissions to the degree level courses for the academic year 2003-2004 in Engineering, Pharmacy and Architecture in deemed Universities, NIT and certain other institutions in States/Union Territories other than those covered by Joint Entrance Examination (JEE) by Indian Institutes of Technology (IIT) and State Level Engineering Entrance Examination (SLEEE) shall be regulated by holding the AIEE Examination to be conducted by CBSE, New Delhi on 11th May 2003, in view of the policy of the Government of India. The respondent no. 5 by letter, dated 3rd January 2003, intimated this fact to respondent no. 3 Director of Technical Education, Goa, and requested respondent no. 3 to give wide publicity about the revised admission process for the benefit of all prospective students. By a further Circular No. 10, dated 20th January 2003, the Director of Education respondent no. 6 intimated the same to all the Heads of the Government and Non-Government aided Higher Secondary Schools in the State of Goa and also requested them to give wide publicity to all the students by circulating in the classes as well as by displaying on the notice board of the schools giving top priority, since the last date of receipt of the form was 1st February 2003, which was subsequently extended up to 23rd February 2003. For

the purpose of conducting the AIEEE, the CBSE, New Delhi had issued an Information Bulletin, which was made available on 21st January 2003 in Panaji Branch of Syndicate Bank. The Bulletin contained the syllabus as prescribed as well as the change in policy criteria. On 11th February 2003, a formal Office Memorandum was also issued notifying officially the change of policy of respondent no. 1.

2. When this policy was intimated, the Higher Secondary Principals' Forum, Goa, by letter dated 20th/31st March 2003, addressed to the Department of Secondary and Higher Secondary Education, of the Government of India, set out therein that the students of the Goa board were intimated only in January 2003 and that the syllabus prescribed for the AIEEE was based on the syllabus adopted by the CBSE and that there were many topics in each of the subjects Physics, Chemistry, Mathematics and Biology, which are not included in the Goa board syllabus. Some other facts also are set out and in these circumstances, respondent no. 1 was directed to direct the various institutions, which were admitting students from Goa, to base the admission on the marks scored in the XIIth standard examination of Goa Board and CBSE, Delhi as was practised till the last year.

3. The petitioner like other students appeared for the examination on 11th May 2003. The petitioner himself did not protest either as regard the AIEE Examination or the syllabus. In the affidavit filed by Shri B.K. Ray on behalf of the respondent no. 1 it is also set out that none of the 523 candidates from Goa who have appeared have protested either against the change of policy or the syllabus prescribed thereof and on the contrary appeared for the examination. The results of AIEEE were declared on 12th June 2003 and the details of online counselling for admission were available on website www.ccb.nic.in. This petition was filed on 13th June 2003.

4. At the hearing of this petition, on behalf of the petitioner, principally two contentions have been raised. It is firstly contended that the syllabus could not have been altered without sufficient notice, thereby putting students from this State at a disadvantage over students who were appearing for examinations of Higher Secondary Schools affiliated to CBSE. It is, therefore, submitted that students in Goa, who appeared from institutions affiliated to CBSE, which prepared them for the CBSE examination were at an advantage over those students who appeared for the XIIth standard examination conducted by the Goa Board of Higher Secondary Education. Secondly, it is contended that choosing the

source in this manner would be arbitrary and consequently it would be open to this Court to interfere with the said policy decision of the Government. Reliance has been placed in the Judgment of the Apex Court in **Kumari N. Vasundara v. The State of Mysore and another**, A.I.R. 1971 S.C. 1439.

5. At the threshold it was sought to be contended and argued on behalf of the petitioner that in fact in other States the Home Study Quota was filled based on the examination conducted by the respective States. Our attention was drawn to the first paragraph of the annexure Exhibit R/2 issued by the Motilal Nehru National Institute of Technology, wherein it was set out as under:-

"The table given below shows availability of programmes and total number of seats in participating institutions. The total number of seats shown are based on previous year records. These institutions are divided into five parts, namely, NITs, RECs, IIITs, Deemed Universities, and other institutions. NITs and RECs have 50% home state quota and 50% other States quota. Other States (except West Bengal, Tamil Nadu and J. & K.) quota of NITs and RECs will be filled from AIEEE-2003 rankers. Home State quota of RECs will not be filled through AIEEE-2003. The numeric codes from 1 to 32 for different course/branch are given below. Branches having similar names are given common codes."

Reference was also made to the brochure issued

by the Special Officer on behalf of the Government of Karnataka containing Details of Eligibility Criteria for Admission, Seat Selection Process, Information regarding Colleges, Probable Availability of Seats and Seat Selection Schedule for 'CET 2003'. To that one of the institution shown under Sr. No. 40 is the Karnataka Regional Engineering College, Surathkal. On this basis it was sought to be contended that admission to the State level quota which was 227, considering that the said College had over 400 seats, is based on the common entrance test.

In the affidavit filed by Shri B.K. Ray on behalf of the respondent no. 1, it is specifically set out under the heading 'Suppression of material facts' that the entire 100% seats in NITs and RECs are to be filled through the results of AIEEE-2003 in respect of all States/Union Territories except for the students of Jammu and Kashmir, Tamil Nadu and West Bengal where admission of students are decided on the basis of the State level Engineering Examination (SLEE) for 2003-2004 only. These are the RECs which are referred to in Exhibit R-2. Explanation has been given as to why that has been done, with which we are really not concerned. The second document is the Office Memorandum, dated 11th February 2003 wherein it is set out that admission to undergraduate programmes in Engineering, apart from

other branches, for all seats in respect of these institutions (referred to earlier), shall be made on the basis of AIEEE to be conducted by the Central Board of Secondary Education (CBSE) from the year 2003 onwards. The Higher Secondary Principals' Forum in Goa also so understood the same as can be reflected from their letter of 20th/31st March 2003 addressed to the Department of Secondary & Higher Secondary Education, Ministry of Human Resource Development, New Delhi. Apart from that, Exhibit F, the Office Memorandum, dated February 11, 2003, is clear that out of the seventeen RECs, fourteen had been converted into deemed universities and admission to all seats in those institutions will be based on the examination to be conducted by AIEEE-2003. The learned counsel on behalf of the Central Government further makes a statement that all seats both for the Home State Quota as also All India Quota will be filled in based on the results of AIEEE except for the three RECs in Tamil Nadu, West Bengal and State of Jammu and Kashmir.

Considering the material on record it is not possible to accept that for the academic year 2003 seats are being filled in based on the examination conducted by the State Government except for the three RECs. These are institutions presently not fully controlled by the respondent no. 1.

6. We then come to the issue as to whether there is anything arbitrary, namely, in the source for admission. The argument is based on the contention that in the State of Goa, students appear for the XIIth Standard Higher Secondary Examination conducted by the CBSE or the Goa Board of Higher Secondary Education. It is contented that the syllabus of the two boards is different. A comparison made of the new syllabus of AIEEE would indicate that the syllabus of AIEEE is more akin to that of CBSE. Whereas so far as the Goa Board is concerned there are various dissimilarities thereby putting the students of the Goa Board at a disadvantage. We are afraid we cannot accept the proposition that merely because students appear for examination conducted by one Board having one curriculum and another board having another curriculum, would thereby show that the source is arbitrary. The respondent no. 1 has stated that the syllabus common for all has been fixed and made known to all students. In other words irrespective of what source the students come from, the syllabus is the same. It is open to the respondent no. 1 to have made such a policy decision. Such policy decision made by the Government cannot be interfered with by the Court unless it is shown to be arbitrary or violative of the petitioner's fundamental right. We see nothing arbitrary in the policy as adopted by the respondent no. 1. The Judgment in **Kumari N. Vasundara v. The State**

of Mysore and another (supra) and more specifically paragraph 7 must itself result in rejecting the contention, as if the sources are properly classified on reasonable basis, then the Courts are not expected to interfere with the manner or method of making the classification. The respondent no. 1 has chosen to adopt a common syllabus whereby all students irrespective of the State have to appear for that examination. It cannot be said that this policy is unreasonable and/or arbitrary. That contention has to be rejected.

7. Lastly it may be pointed out that the petitioner at least in the month of January was aware of the new syllabus. He applied for the admission. He appeared for the examination and it was only when the result was declared on 12th June 2003 that he has chosen to file this petition on 13th June 2003. Another Division Bench of this Court at Nagpur in Writ Petition No. 676 of 2003, where the petitioners had approached the Court for similar reliefs, found no ground for interference and dismissed the petition on 10th April 2003 on the ground that sufficient notice for the change in policy had been given and Courts would not interfere in the policy decision taken in the matter. In that case the students had approached the Court even before the examination was conducted, yet the Division Bench of

this Court did not find favour with the contention raised. In the instant case the petitioner came to the Court only after the results were declared.

8. For all the aforesaid reasons, we find no substance in this petition, which is, accordingly, rejected.

(F.I. REBELLO)
JUDGE.

(P.V. HARDAS)
JUDGE.

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